

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

VINCENT CASARES

Plaintiff

v.

DR. LANNETTE LINTHICUM, ET AL.

Defendants

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Case No. 6:17cv701-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Plaintiff Vincent Casares, proceeding *pro se*, filed the above-styled and numbered civil rights lawsuit under 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636.

Plaintiff was released from prison on November 30, 2021. Since that date, he has not notified the Court of his present mailing address or current whereabouts. The lawsuit form signed by Plaintiff contained a declaration stating Plaintiff understands it is his responsibility to keep the court informed of his mailing address in the event of his release and that failure to do so could result in the dismissal of the case.

On January 4, 2022, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice for failure to prosecute, with the statute of limitations suspended for a period of 90 days following the date of entry of final judgment. The Magistrate Judge observed that should Plaintiff contact the Court within this time period, a motion for relief from judgment would likely receive favorable consideration.

A copy of this Report was sent to Plaintiff's last known address, return receipt requested, but no objections have been received. This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto.*

Ass'n, 79 F.3d 1415, 1430 5th Cir. 1996) (en banc), superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Plaintiff did not file objections in the prescribed period. The Court therefore reviews the Magistrate Judge's findings or clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), cert. denied, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and Recommendation, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. The Court therefore adopts the Report and Recommendation of the United States Magistrate Judge as the findings of this Court.

Accordingly, it is hereby **ORDERED** that the Magistrate Judge's Report (Docket No. 148) be **ADOPTED**. The above-styled civil action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute. The statute of limitations is **SUSPENDED** for a period of ninety (90) days following the date of entry of final judgment. All pending motions are **DENIED** as **MOOT**.

Signed this

Feb 9, 2022



JEREMY D. KERNODEE
UNITED STATES DISTRICT JUDGE